

CITY-COUNTY GENERAL ORDINANCE NO. 27, 1995  
Proposal No. 99, 1995

METROPOLITAN DEVELOPMENT COMMISSION  
DOCKET NO. 95-AO-2

A GENERAL ORDINANCE to amend the Improvement Location Permit Ordinance of Marion County, 68-AO-11, as amended.

WHEREAS, IC 36-7-4, as amended establishes a single planning and zoning authority in counties having consolidated cities and grants certain powers relative the zoning and districting of land to the Metropolitan Development Commission and the City-County Council of such counties having consolidated cities, in order to unify the planning and zoning functions thereof; and,

WHEREAS, the Metropolitan Development Commission of Marion County, Indiana, has adopted and certified, pursuant to IC 36-7-4, as amended, various segments of its Comprehensive Plan of Marion County, Indiana; and

WHEREAS, said IC 36-7-4, as amended, empowers the Metropolitan Development Commission of Marion County, Indiana, after such comprehensive plan certification, to recommend to the City-County Council an ordinance or ordinances for the zoning or districting of all lands within the County to the end that adequate light, air, convenience of access and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; that property values may be preserved; and the public health, safety, comfort, morals, convenience and general public welfare may be promoted;

WHEREAS, said IC 36-7-4, as amended, grants certain Improvement Location Permit powers to said Commission; and

WHEREAS, the Metropolitan Development Commission and the City- County Council desire to address the needs of the citizens of Marion County in preparing an ordinance which meets the long-term needs of the City/County as a whole; and

WHEREAS, the Regulatory Study Commission, after careful analysis, has determined that the provisions requiring Improvement Location Permits for certain specified types of development are overly burdensome, unnecessary, and repetitive; and,

WHEREAS, the Regulatory Study Commission has recommended to the Metropolitan Development Commission and the City-County Council that certain specified types of development be exempt from the requirements of obtaining an Improvement Location Permit; and

WHEREAS, the regulations and provisions of the applicable zoning ordinances will continue to provide the protection desired by surrounding property owners from inappropriate development, now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Improvement Location Permit Ordinance, Appendix D, Part 17, of the Municipal Code of Indianapolis and Marion County, Indiana, as adopted under Metropolitan Development Commission Docket Numbers 68-AO-11, 71-AO-1, 75-AO-2, 88-AO-1, and 93-AO-3, is further amended by deleting the stricken-through language and inserting the underlined language as follows:

~~CITY-COUNTY GENERAL ORDINANCE NO. 134, 1975~~  
~~METROPOLITAN DEVELOPMENT COMMISSION~~  
~~DOCKET NO. 75-AO-2 (AS AMENDED)~~

~~AN ORDINANCE to amend Marion County Council Ordinance No. 8-1957 as amended, the Zoning Ordinance for Marion County, Indiana, and fixing a time when the same shall take effect.~~

THE IMPROVEMENT LOCATION PERMIT ORDINANCE  
OF  
MARION COUNTY, INDIANA

~~WHEREAS, Chapter 283 of the Acts of the Indiana General Assembly for 1955, as amended, established a single planning and zoning authority in counties having first class cities and grants certain powers relative to the zoning and districting of land to the Metropolitan Development Commission and City County Council of such counties having first class cities, in order to unify the planning and zoning functions thereof;~~

~~WHEREAS, the Metropolitan Development Commission of Marion County, Indiana, has adopted and certified pursuant to Chapter 283 of the Acts of the Indiana General Assembly for 1955, as amended, various segments of its ORIGINAL COMPREHENSIVE OR MASTER PLAN FOR MARION COUNTY, INDIANA;~~

~~WHEREAS, said Chapter 283 of the Acts of the Indiana General Assembly 1955, as amended, empowers the Metropolitan Development Commission of Marion County, Indiana, after such comprehensive plan certification, to recommend to the City County Council an ordinance or ordinances for the zoning or districting of all lands within the County to the end that adequate light, air, convenience of access and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; that property values may be preserved; that the public health, safety, comfort, morals, convenience and general welfare may be promoted; and~~

~~WHEREAS, section 55 of said Chapter 283 of the Acts of the Indiana General Assembly for 1955, as amended, grants certain improvement location permit powers to said Commission and City County Council;~~

~~NOW, THEREFORE BE IT ORDAINED, by the City Council of the consolidated City of Indianapolis and of Marion County, Indiana, pursuant to said section 55 of Chapter 283 of the Indiana Acts of 1955, as amended, that Marion County Council Ordinance No. 8-1957, adopted by the Marion County Council on March 28, 1957, as amended, and the Improvement Location Permit Ordinance of Marion County, Indiana, Ordinance 68-AO-11, as amended, adopted as an amendment thereto, pursuant to IC 1971, 18-7-2 and IC 1981, 18-4, be amended to read as follows:~~

IMPROVEMENT LOCATION PERMIT ORDINANCE  
OF MARION COUNTY, INDIANA

Sec. 1.00 Improvement Location Permit regulations

A. Applicability of regulations.

1. Within Marion County, Indiana, no structure shall be located, erected, altered or repaired ~~(except that repairs or alteration which do not change the height, size or lateral bulk of the structure shall be exempt from the requirements of this ordinance)~~ unless the use, character and location of the structure are in conformity with the provisions of the applicable zoning ordinances, Official Thoroughfare Plan for Marion County, Indiana, ordinance and other ordinances relating to land use, including this ordinance.

B1 2. a. Obtaining an Improvement Location Permit. No structure shall be located, erected, altered or repaired ~~(except that repairs or alteration which do not change the height, size or lateral bulk of the structure shall be exempt from the requirements of this~~

~~ordinance~~ upon any land within Marion County, Indiana, until an Improvement Location Permit ~~there~~ has been applied for by the owner (or authorized agent) thereof and issued by the Metropolitan Development Commission of Marion County, Indiana, unless specifically exempted in Section 1.00, A, 2, b below.

b. Specific exemptions. An Improvement Location Permit shall not be required for the creation or alteration of the following structures or for accomplishing the following types of improvements. All provisions and regulations of the zoning ordinance applicable in the particular situation shall continue to apply to exempted structures and improvements:

- (1) Air conditioning units
- (2) Childrens' play equipment (residential)
- (3) Decks or patios (under eighteen [18] inches in height)
- (4) Enclosure, within the existing building foot print, of portions of the building which already have a foundation and a roof (residential)
- (5) Fences
- (6) Landscape strips
- (7) Mini barns or sheds (under 120 square feet and not on a permanent foundation)
- (8) Movable, temporary use structures or buildings utilized during construction projects
- (9) Recycling containers
- (10) Repairs or alterations which do not change the height, size or lateral bulk of the structure
- (11) Residential awnings
- (12) Roof line changes (residential)
- (13) Roof line changes which do not add usable floor space (commercial)
- (14) Sidewalks on private property out of the public right-of-way
- (15) Trash containers/dumpsters

2- B. Application for Improvement Location Permit. Application for Improvement Location Permits shall be made upon forms prescribed by the ~~Metropolitan Development~~ Commission, shall include a legal description of the lot, and shall be accompanied by the following:

- a) 1. Required site plan. An accurate site plan in duplicate, drawn to scale, showing:
- 4) a. Location of right-of-way line or lines of all streets, alleys and easements located adjacent to or within the lot. Location of center line of all streets and dimension to right-of-way line(s).
  - 2) b. Location and dimensions of private drives and interior access roads, including connection to public streets and proposed driveway entrances and exits.
  - 3) c. Names of all adjacent streets, private drives and interior access roads.
  - d. Address of proposed structure or use, as assigned by The Department of Metropolitan Development-Department.
  - 4) e. The lot and dimensions thereof.
  - 6) f. Setbacks, minimum required front, side and rear yards.
  - 6) g. Existing structures (location, dimensions to lot lines and size) - except structures to be razed prior to or contemporaneously with construction pursuant to the Permit.

- 7) h. Proposed location of structure(s) on lot, indicating dimensions to all lot lines.
  - 8) i. Accurate dimensions of structure(s) proposed.
  - 9) j. Signs, including location, dimensions to lot lines, type and size.
  - 10) k. Size, height, and location of landscaping, screens, walls, fences (when required by ordinance or grant of variance).
  - 11) l. Off-street parking area (when required by ordinance or grant of variance), including dimensions or parking spaces, driveways and maneuvering aisles.
  - 12) m. Off-street loading area (when required by ordinance or grant of variance), including dimensions.
- b) 2. Other required information, plans, exhibits, evidence of submission of plans to other governmental agencies
- 4) a. Any other information, plans or exhibits required by or to indicate compliance with applicable zoning ordinances, this ordinance, covenants, commitments and conditions of grants of variance.
  - 2) b. Any other applicable information, plans or exhibits required by the Improvement Location Permit form, including but not limited to:
    - (a) (1) Evidence of the applicant's submission of required plans to the Indianapolis Department of Capital Asset Management (DCAM) Transportation.
    - (b) (2) Evidence of the applicant's submission of a required drainage plan to the Indianapolis ~~Department of Public Works~~ DCAM.

Provided, however:

- (1) i. At the request of the ~~DCAM Department of Public Works~~, Improvement Location Permit issuance may be withheld for a period not to exceed five (5) business days if in the opinion of the ~~Department of Public Works~~ DCAM commencement under such plan may result in a hazard to the public health, safety or general welfare.
- (2) ii. If the ~~Department of Public Works~~ DCAM approves said plan, or at the expiration of such five (5) days has neither approved nor disapproved said plan, the Permit shall be issued.
- (3) iii. If the ~~Department of Public Works~~ DCAM disapproves said plan, the Permit shall not be issued except in accordance with paragraph (4) following.
- (4) iv. In the event of disapproval of the drainage plan by the ~~Department of Public Works~~ DCAM, a written statement of the reasons for disapproval shall be provided to the Administrator ~~of the Division of Planning and Zoning~~ and to the applicant. The Administrator may then authorize issuance of the Improvement Location Permit if the applicant shows an immediate hardship will accrue if such Permit is not issued, the applicant covenants to comply with the requirements of the ~~Department of Public Works~~ DCAM regarding drainage, and the Administrator, upon consultation with the ~~Department of Public Works~~ DCAM, determines that proceeding

with construction would not result in a hazard to the public health, safety or general welfare.

3. Requirement of conformity with rezoning plans, covenants

~~The site plan accompanying an application for Improvement Location Permit shall be in substantial conformity with all Plans (including exhibits, site plans, renderings, plans for buildings, signs, or other structures, fencing, landscaping, off street parking and loading areas, utilities, drainage, sewage or other developmental or land use plans) and Parol Covenant (such term to mean any representation of fact or intention made verbally in the public hearing and identified by the person make the same as a Covenant) filed, made or presented by the petitioner, his attorney or agent (including such Plans and Parol Covenants so signed, made or presented by predecessors, titleholders or petitioners, and attorneys or agents) in support of any petition for rezoning filed with the Metropolitan Development Department after the effective date of this ordinance and pursuant to which the land included in the Application for Improvement Location Permit is currently zoned. Applications for Improvement Location Permit shall be in conformity with any applicable recorded covenants running to the Metropolitan Development Commission.~~

~~Building plans or other additional plans, specifications, exhibits or information shall be filed as necessary as a part of said Improvement Location Permit Application to demonstrate conformity with said Plans, Parol Covenants, and recorded covenants, and all development pursuant to said Permit be in conformity therewith. If the Application for Improvement Location Permit is not in substantial conformity with said Plans, Parol Covenants and recorded covenants, the Permit shall not be issued.~~

~~Provided, however:~~

- ~~1) A Petition to Modify said Plans and/or Parol Covenants may be filed with the Metropolitan Development Commission, which shall hold a hearing thereon. Notice by publication and to adjacent property owners shall be required in accordance with the Rules of Procedure of said Commission relative to rezoning petitions. Following the hearing, the Commission may consider and act upon said Petition, by approving in whole or in part, or subject to any amendments or conditions, or by disapproving. In accordance with the Commission's approval of the Petition to Modify, an Improvement Location Permit shall be issued.~~

4. C. Requirement of conformity with applicable ordinances, variances. No Permit shall be issued for any structure or use unless the use, character and location thereof shall be in conformity with the provisions of all applicable zoning ordinances, Official Thoroughfare Plan for Marion County, Indiana, ordinances and other ordinances relating to land use, including this ordinance.

No Permit shall be issued for any structure or use authorized by variance unless the use, character and location thereof shall be in conformity with all requirements and conditions of ~~said~~ the variance.

D. Requirement of conformity with conditions and commitments. No permit shall be issued for any structure or use unless the use, character and location thereof shall be in conformity with all conditions and commitments.

Provided, however, a petition to modify plans, conditions or commitments may be filed with the appropriate public body (Metropolitan Development Commission or Board of Zoning Appeals) in compliance with all requirements of the applicable body's Rules of Procedure.

~~6.~~ E. Street frontage requirements. No Permit shall be issued for any use or structure unless the lot abuts upon and has adequate frontage on a public street (the right-of-way of which has been dedicated and accepted for maintenance by governmental agency having jurisdiction thereof, or the

construction of which is bonded in accordance with the standards and requirements of the Subdivision Control Ordinance of Marion County, Indiana applicable municipal agency having jurisdiction) in accordance with the requirements of all applicable ordinances, except as otherwise specifically authorized in zoning districts permitting private drives or interior access roads or by variance.

6. F. Automatic revocation—2 YEARS IF WORK NOT BEGUN. Every Permit shall be automatically revoked if active work thereunder is not commenced within two (2) years of its issue -- excepting, however, the Administrator ~~of the Division of Planning and Zoning of the Metropolitan Development Department~~ may, upon good cause shown, grant extensions thereof for periods not to exceed 180 days.

7. G. Revocation in event of violation; enforcement. ~~If the Administrator of the Division of Planning and Zoning of the Metropolitan Development Department determines that the construction or development under any permit is not proceeding according to the applicable ordinances, site plan filed with said Permit application, or other requirements or conditions upon which such Permit was issued, or is otherwise proceeding in violation of law, the Permit may be revoked. Construction or development under any Permit shall proceed according to the applicable ordinances, the site plan filed with said Permit application, and the conditions or commitments of any applicable variance, rezoning or other approval grant. If the Administrator determines that construction or development is proceeding or has proceeded in violation of said ordinances, site plan or approval grant, or that the Permit was issued in violation of an ordinance or the conditions of commitments of such approval grant, the Administrator may revoke said Permit. The Administrator shall send written notice of the revocation to the permit applicant.~~

SECTION 2. Enforcement ~~(repealed by the enforcement and remedies zoning ordinance (88-ao-5/g.O. 122, 1988))~~

Sec. 2.00 Construction of language and definitions.

A. Construction of language. The language of this ordinance shall be interpreted in accordance with the following regulations:

1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this ordinance and any illustration or diagram, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
7. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:

- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- c. "Either...or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

B. *Definitions.* SECTION 3. DEFINITIONS

- 1. *Administrator.* Administrator of the Neighborhood and Development Services Division or his/her appointed representative.
- 2. *Alteration.* Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.
- 3. *Building.* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having a permanent roof supported by columns or walls.
- 4. *Commission.* The Metropolitan Development Commission of Marion County, Indiana.
- 5. *Commitment.* An official agreement concerning and running with the land as recorded in the office of the Marion County Recorder.
- 6. *Condition.* An official agreement between the municipality and the petitioner concerning the use or development of the land as imposed by the Board of Zoning Appeals.
- 7. *Erect.* Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.
- 8. *Frontage (Street Frontage).* The line of contact of a property with the street right-of-way along a lot line.
- 9. *Mini-Barn.* A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also Shed)
- 10. *Right-of-Way.* Specific and particularly described strip of land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage for pedestrians, vehicles, or utilities, as officially recorded by the office of the Marion County Recorder.
- 11. *Right-of-Way, Public.* Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, officially recorded by the office of the Marion County Recorder.
- 12. *Right-of-Way, Private.* Specific and particularly described strip of privately-held land, property, or interest therein devoted to and subject to use for general transportation



purposes or conveyance of utilities whether or not in actual fact, improved or actually used for such purposes, as officially recorded by the office of the Marion County Recorder

13. Shed. A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot (See also Mini-Barn)
14. Sign. Any structure, fixture, placard, announcement, declaration, device, demonstration or insignia use for direction, information, identification or to advertise or promote any business, product, goods, activity, services or any interests.
15. Site Plan. The development plan, or series of plans, drawn to scale, for one or more lots on which is shown the existing and proposed location and conditions of the lot including as required by ordinance, but not limited to: topography, vegetation, drainage, floodplains, marshes, and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings, structures, signs, lighting and screening devices, center lines of rights-of-way, and dimensions.
16. Street, Private. A privately-held right-of-way, with the exception of alleys, essentially open to the sky and open for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking spaces, and the like.
17. Street, Public. A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and the like.
- A1 18. Structure. For purposes of this ordinance, a "structure", for which an Improvement Location Permit shall be required, shall include any building, sign or other structure, constructed or erected, the use of which requires a more or less specific location upon the ground, whether permanently affixed to the ground, temporary or mobile, ~~(including, without limitation the generality of the foregoing, mobile structures such as mobile homes and mobile identification, business or advertising signs), land improvements, constructions or alterations (including, without limitation upon the generality of the foregoing, off street parking areas; mobile home parks, swimming pools; reservoirs; artificial lakes; the commercial excavation or removal of earth, minerals, sand or gravel; miniature golf, gold driving ranges, archery centers; tennis courts; athletic fields; stadiums; race tracks; golf courses; cemeteries; heliports; landing fields; reviewing stands; zoos; other outdoor exhibition or display areas, such as automobile, mobile homes, trailer or equipment storage, sales or rental; metal or salvage storage; model homes display), seasonal or temporary uses (including without limitation upon the generality of the foregoing, Christmas tree or nursery plant sales; fruit stands; tent exhibitions; outdoor bazaars) and similar open land uses.~~
19. Thoroughfare. The segment of the Comprehensive Plan for Marion County, Indiana, adopted by the Metropolitan Plan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4 that sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary arterials, secondary arterials, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.



Sec. 43.00 Severability.

~~No Improvement Location Permits shall be issued for outdoor advertising signs in Marion county from the date of adoption of this amendment until the date when amendments to the outdoor advertising provisions of the Sign Regulations of Marion County, Indiana (Ordinance No. 71-AO-4, as amended by 86-AO-1) have been made, adopted and take effect or until June 1, 1988, whichever is earlier in time.~~

~~SECTION 5~~

~~If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect other ordinance provisions or clauses or applications thereof which can be implemented without the unconstitutional or invalid provision, clause, or application, and to this end the provisions, clauses or application, of this ordinance are declared to be severable.~~

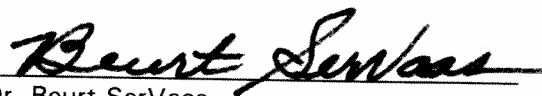
If any provision of this ordinance shall be held invalid, its invalidity shall not affect any other provisions of this ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this ordinance are hereby declared to be severable.

~~NOW BE IT FURTHER ORDAINED that an emergency exists for the passage of this ordinance and that the same shall be in full force and effect from and after this date.~~

SECTION 2. This ordinance shall be in full force and effect from and after adoption in compliance with IC 36-7-4.

The foregoing was passed by the City-County Council this 27th day of February, 1995, at 8:55 p.m.

ATTEST:



Dr. Beurt SerVaas  
President, City-County Council



Suellen Hart, Clerk, City-County Council